

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DARIO OLIVAS,

Case No. 2:14-CV-1801 JCM (VCF)

Plaintiff(s),

ORDER

V.

STATE OF NEVADA, ex rel,

Defendant(s).

Presently before the court is a motion to amend/correct complaint filed by plaintiff Dario Olivas (ECF No. 43). Defendants Nicholas Galbisco and the State of Nevada ex rel. the Department of Corrections filed a response, (ECF No. 45), to which plaintiff replied (ECF No. 46).

Also before the court is defendants' motion to dismiss plaintiff's complaint. (ECF No. 33). Plaintiff has not filed a response, and the time for doing so has since passed.

Federal Rule of Civil Procedure 15(a) provides that “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The United States Supreme Court has interpreted Rule 15(a) and confirmed the liberal standard district courts must apply when granting such leave. In *Foman v. Davis*, the Supreme Court explained:

In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc.—the leave sought should, as the rules require, be “freely given.”

371 U.S. 178, 182 (1962).

Plaintiff's complaint asserts that the court should grant leave to amend so that he may correct factual inaccuracies in his current amended complaint. (ECF No. 43). Plaintiff recently

1 obtained new counsel who learned of these factual inaccuracies while reviewing plaintiff's case
2 file and interviewing plaintiff. *Id.* Defendants' response does not demonstrate any undue delay,
3 bad faith, or other adequate reason to deny plaintiff's motion to amend. (ECF No. 45). In light of
4 Rule 15's liberal standard, the court will grant plaintiff's motion to amend/correct his complaint.
5 (ECF No. 43).

6 | Accordingly,

7 IT IS HEREBY ORDERED that plaintiff's motion to amend/correct complaint (ECF No.
8 43) be, and the same hereby is, GRANTED.

9 IT IS FURTHER ORDERED that plaintiff shall file, within fourteen (14) days from the
10 entry of this order, an amended complaint identical to the one attached to his motion to amend
11 (ECF No. 43).

12 IT IS FURTHER ORDERED that defendants' motion to dismiss (ECF No. 33) be, and the
13 same hereby is, DENIED as moot.

14 || DATED February 23, 2018.

James C. Mahan
UNITED STATES DISTRICT JUDGE